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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,803	04/20/2006	Eric Dallies	273903US0PCT	5036
22850 7590 04/07/2009 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
GRAY, JILL M				
ART UNIT		PAPER NUMBER		
1794				
NOTIFICATION DATE		DELIVERY MODE		
04/07/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/539,803

Applicant(s)

DALLIES ET AL.

Examiner

Jill Gray

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

The rejection of claims 1 and 6-12 under 35 U.S.C. 112, second paragraph is moot in view of applicants' amendments.

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-2 and 5-12 are rejected under 35 U.S.C. 102(b) as being anticipated by European Patent Publication 225,036 (the publication).

The publication discloses polypropylene fibers for reinforcement of products based on fibers and a hydraulic-setting substance and products produced therewith, said fibers having an antistatic coating thereon, per claims 1-2, 7-8, 10 and 12. See entire document, for example, abstract, page 3, lines 25-31, page 4, lines 1-13. In addition, the publication discloses that the coating is present on the fibers in an amount ranging from 0.1 to 5.0% by mass and that the fibers are added to the hydraulic in an amount of 0.05 to 20% by weight, as required by claims 5 and 9. See page 4, lines 24-30 and claim 10. Also, the publication discloses that the antistatic coating is applied in any of the manners set forth in present claim 6, and that the process is manufactured according to a process that is essentially as claimed in present claim 11. See page 4, line 14 through page 5, and line 11 and Examples.

Therefore, the teachings of the publication anticipate the invention as claimed in present claims 1-2 and 5-12.

3. Claims 1-2 and 5-12 are rejected under 35 U.S.C. 102(b) as being anticipated by European Patent Publication EP 310,100 (Hansen).

Hansen discloses polypropylene fibers for reinforcement of products based on fibers and a hydraulic-setting substance and products produced therewith, said fibers having a coating thereon, per claims 1-2, 7-8, 10 and 12. See entire document, for example, abstract, page 4, lines 39-42. In addition, Hansen discloses that the coating is present on the fibers in an amount ranging from 0.15 to 3.0% by weight and that the fibers are added to the hydraulic in an amount of about 1.5 to 3% by weight, as required by claims 5 and 9. See page 4, lines 45-48 and page 6, lines 7-24. Also, Hansen discloses that the antistatic coating is applied in any of the manners set forth in present claim 6, and that the process is manufactured according to a process that is essentially as claimed in present claim 11. See Examples.

Therefore the teachings of Hansen anticipate the invention as claimed in present claims 1-2 and 5-12.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
7. Claims 3-4 and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Publication 225,036 (the publication) of Hansen, each as applied above.

The publication and Hansen are as set forth above but do not teach the titre or tenacity of the fibers. As to claim 3, this limitation is drawn to the size of the polypropylene fibers, wherein changes of size are not a matter of invention, in the absence of factual evidence to the contrary. As to claim 4, it would have been obvious to the skilled artisan to choose fibers of a specific tenacity commensurate with the desired end use. For example, fibers to be used in the formation of ballistic articles would suitably be chosen with a different tenacity than fibers to be used in the formation of a diaper. Regarding claims 13-18, it is the examiner's position that these claims are

no more than a preferential selection of a known sizing agent from among being selected for its art recognized purpose. Accordingly, this would have been an obvious variant to the skilled artisan in the absence of clear factual evidence of superior or unexpected properties that are directly related to said sizing agent.

Therefore, the teachings of the publication or Hansen` would have rendered obvious present claims 3-4.

Response to Arguments

8. Applicant's arguments filed January 2, 2009 have been fully considered but they are not persuasive.

Applicants argue that neither Szekely not Hansen disclose fibers containing sizing agents limited to specified antistatic agents and their fibers nor the specific sizing agents set forth in new claims 13-18.

In this regard and as set forth above, it is the examiner's position that these claims are no more than a preferential selection of a known sizing agent from among being selected for its art recognized purpose. Accordingly, this would have been an obvious variant to the skilled artisan in the absence of clear factual evidence of superior or unexpected properties that are directly related to said sizing agent. Applicants are invited to provide such evidence.

No claims are allowed.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill Gray whose telephone number is 571-272-1524. The examiner can normally be reached on M-Th and alternate Fridays 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jill Gray/
Primary Examiner
Art Unit 1794

jmg